

Applicant: David S. Lawrence
Serial No.: 10/755,086
Filed: January 9, 2004
page 192 of 193

REMARKS

Claims 49, 56-71, 73-80, 82-84, 86-94, 96-102, 122-123, 127-131, 133-134, 137-143 and 146-150 were pending in the subject application. Claims 49, 83, 88-94, 96-102, 122-123, 129-131, 133, 134, 137-143, 146, 147, 149 and 150 are allowed. Dependent Claims 57-66, 68, 69, 71, 77, 78, 127, 128 and 148 are objected to. Dependent Claims 70, 79, 80, 82 and 84 were withdrawn from consideration as directed to non-elected species. By this Amendment, Claims 82 and 94 have been canceled without prejudice or disclaimer, Claims 49, 56-62, 71, 73-80, 83-84, 86, 88-89, 98, 122 and 148 have been amended, and add new Claims 151-154 have been added. Applicant maintains that the amendments do not raise an issue of new matter. Entry of the amendment is respectfully requested.

October 2, 2009 Telephone Interview

Applicant's undersigned attorney thanks Examiner Chih-Min Kam for the courtesy of a telephone interview on October 2, 2009. During the interview, amendments were discussed that would place the claims in condition for allowance. The Examiner indicated that the rejections under 35 U.S.C. §102(b) would be withdrawn in view of the amendments and that withdrawn Claims 70, 79, 80 and 84 would be reinstated. If the Examiner should identify any remaining matters preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

Rejections under 35 U.S.C. §102(b)

Claim 56 and dependent Claims 67, 73-76 and 86-87 were rejected as anticipated by Nagai et al. (Nature Biotechnology 18: 313-316, 2000). The rejection is understood to be obviated in view of the amendment to Claim 56 to require that the fluorophore is attached to the peptide by one of the linkers specified in the claim.

Applicant: David S. Lawrence
Serial No.: 10/755,086
Filed: January 9, 2004
page 193 of 193

CONCLUSIONS

In view of the amendments and remarks made herein, reconsideration and withdrawal of the rejections set forth in the July 29, 2009 Office Action and passage of the claims to allowance are respectfully requested. If there are any minor matters preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

Authorization is given to charge Deposit Account No. 01-1785 for the \$220.00 fee for one additional independent claim in addition to the 10 independent claims previously paid for. No additional fee is deemed necessary in connection with the filing of this reply. However, if any other fee is required with this reply or to preserve the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicant
90 Park Avenue
New York, New York 10016
(212) 336-8000

Dated: October 2, 2009
New York, New York

By /Alan D. Miller/
Alan D. Miller, Reg. No. 42,889